

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE:

JAMES BERNARD HEBIN,

Case No.: 8:12-BK-12383-KRM

Chapter 13 Case

Debtor.

**MOTION FOR RELIEF FROM STAY BY
DEREK RICHCREEK aka DERRICK RICHCREEK**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider this motion without further notice or hearing unless a party in interest files an objection within TWENTY-ONE (21) days from the date of service of this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 801 N Florida Ave, Suite 555, Tampa FL 33602-3899, and serve a copy on the movant's attorney, The Reissman Law Group, P.A., 5150 Central Avenue, St Petersburg, FL 33707.

If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

COMES NOW, DEREK RICHCREEK (the "Movant"), by and through undersigned counsel, and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for entry of an order modifying the automatic stay against lien enforcement to permit Movant to enforce his security interest in property and states:

1. The Debtor filed for relief under Chapter 13 of Title 11 U.S.C. on April 8, 2012.
2. The property that is the subject of this Motion is located at 10021 Gulf Blvd, Treasure Island, Florida 33706 (the "Property"), which is more particularly described in the

Mortgage attached hereto as an exhibit.

3. The Debtor owns the Property subject to the Original Note and Mortgage dated July 1, 2005 and Loan Modification Agreement dated August 10, 2009 (the "Loan Documents"), securing the same. A copy of the Loan Documents are attached as Exhibits A and B respectively.

4. The Debtor is in default and the principal balance owed on the debt is \$468,364.47. Additionally there is interest and other charges which must be paid to satisfy the debt, including unpaid ad valorem real estate taxes for 2010 and 2011 in the approximate amount of \$12,922.55.

5. The Property has an estimated market value of \$301,388.00, according to County Property Appraisal. See Exhibit C attached.

6. Upon information and belief, the Property has not been claimed exempt and is not necessary for an effective reorganization.

7. The Debtor has failed to file a plan to provide for payments to Movant. Thus, the Debtor has failed to adequately protect the interests of Movant.

8. Further, Movant's security interest in the subject property is being significantly jeopardized by the Debtor's failure to make regular payments under the subject loan documents while Movant is prohibited from pursuing lawful remedies to protect such security interest.

9. Movant maintains that cause exists pursuant to 11 U.S.C. § 362(d)(1) for the automatic stay to be lifted to allow Secured Creditor to pursue its *in rem* remedies.

10. Movant respectfully requests the Court waive the fourteen (14) day stay of the Order Granting Relief pursuant to Bankruptcy Rule 4001 (a)(3), so the Movant can pursue his *in rem* remedies without further delay.

11. Movant has incurred attorneys' fees of \$1,000.00 and costs in the amount of \$176.00 as a result of having to file this Motion. Movant seeks an award of its fees and costs or, alternatively, leave to seek recovery of its reasonable bankruptcy attorneys fees in the foreclosure action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished either electronically or by regular U.S. Mail to: James Bernard Hebin, Debtor, 10021 Gulf Blvd., Treasure Island, FL 33706; R. Todd Burbine, Attorney for Debtor, 4500 140th Avenue North, Ste. 202, Clearwater, FL 33762; Terry E. Smith, Trustee, PO Box 6099 Sun City Center, FL 33571; and Derek Richcreek, 7019 N. Dartmouth Avenue, St. Petersburg, FL 33710 on this 21st day of August, 2012.

THE REISSMAN LAW GROUP, P.A.



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